IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 2380 2007

M/s. Balrampur Chini Mills Ltd. ... Petitioner.

V/s.

The State of Maharashtra & Ors. ... Respondents.

Mr. Nilesh Patil for the Petitioner.
Mr. Vinay Sonpal,A.G.P. for the Respondent/State.

CORAM : ANOOP V. MOHTA, J.

22ND OCTOBER 2007.

P.C. :-

. Against the order dated 28th December 2006, whereby the Minister, Home Department, Mantralaya, after considering the material placed on record observed in para 3 as under :-

> 3. "In view of this, the question of refund of amount of Rs.6,00,000/- with interest 16% per annum to you by the government does not arise. Further it is stated that in the above said matter Appeal made by you to the Government is

not against the statutory orders of the Commissioner of State Excise, Maharashtra State, Mumbai and is against the letter sent to you by the Commissioner, State Excise, Maharashtra State, Mumbai hence it does not stands as an appeal."

2. After hearing both the parties and considering the affidavit-in-reply filed by the Respondent - State, I am of the view that the various questions of facts has raised and specifically of no knowledge of such order which are just cannot be gone into the present Writ Petition.

3. The learned Counsel appearing for the Petitioner basically, contended that the impugned order be quashed and set aside on the ground of breach of principle of natural justice. The person was authorised person or not is again matter of disputed facts.

4. The learned Counsel appearing for the Respondents further submitted that in such matter there is no question of refund of amount as prayed, especially, in view of the fact that the Commissioner of the State

Excise Maharashtra State had granted the registration of form 'K' and permitted the petitioner to import the liquor to sell in the Maharashtra State for which labels were approved. In such situation, inspite of the approval in the petition, if such person failed to import the liquor. The action of non refund just cannot be said to be beyond the purview of law and rules, in question. The impugned action/order, therefore, is well within the law.

5. However, keeping all points open as the remedy on given disputed question of facts lies somewhere else, the present petition is dismissed.

6. No costs.

(ANOOP V. MOHTA, J.)